

FIRE PROTECTION SERVICES AGREEMENT

THIS FIRE PROTECTION SERVICES AGREEMENT (“**Agreement**”) is made effective this _____ day of _____, 2025 (“**Effective Date**”), by and among WEST SUBURBAN FIRE DISTRICT, a Minnesota non-profit corporation, (“**WSFD**”), CITY OF MAPLE PLAIN, a Minnesota municipal corporation, (“**Maple Plain**”) and city of INDEPENDENCE, Minnesota municipal corporation (“**Independence**”; Maple Plain and Independence sometimes individual a “**City**” and collectively “**Cities**”; Cites and WSFD sometimes individually a “**Party**” and collectively “**Parties**”).

WHEREAS, Maple Plain operates the Maple Plain Volunteer Fire Department and by that *Agreement Establishing the Maple Plain-Independence Fire Services Partnership Between Maple Plain and Independence*, dated December 31, 2002 (“**Partnership Contract**”) provides and other emergency services for the Cities in the Fire Service Area, depicted on attached Exhibit A (“**Fire Service Area**”); and

WHEREAS, the Maple Plain Volunteer Fire Department shall cease operations and the Partnership Contract shall terminate effective December 31, 2025; and

WHEREAS, the Cities desire to contract with WSFD for firefighting, fire inspection, fire suppression and fire prevention, emergency incident management, rescue, emergency medical services, and hazardous materials response within the Fire Service Area (“**Fire Services**”); and

WHEREAS, on _____ 2025, Maple Plain and WSFD entered into that Lease Agreement (“**Lease Agreement**”), which Lease Agreement provides the terms and conditions related to WSFD’s lease of the fire station located at 1645 Pioneer Ave, Maple Plain, MN 55359; and

WHEREAS, Maple Plain is the owner of that fire equipment listed on attached Exhibit B (“**Maple Plain Equipment**”); and

WHEREAS, the Cities desire to receive and WSFD desires to provide Fire Services in the Fire Service Area by entering into this Agreement.

NOW, THEREFORE, the Parties, for good and valuable consideration and the terms and obligations herein, agree as follows:

1. **Incorporation.** The above recitals and all attached exhibits are a material part of this Agreement and are incorporated herein.
2. **Term.** This Agreement shall be effective as of the Effective Date. The term of this Agreement will commence on January 1, 2026 (the “**Commencement Date**”), and will expire on December 31, 2030, unless terminated sooner, renewed, or extended in accordance with this Agreement (the “**Initial Term**”). Thereafter, this Agreement shall automatically be renewed for five (5) year renewal terms (each a “**Renewal Term**”; Initial Term and Renewal Term sometimes individually a “**Term**”) unless a City elects

not to renew this Agreement at the end of the then-current Term by giving written notice to the other Parties at least two (2) years prior to the end of the then-current Term.

3. Service Provided.

- a. Generally. During the Initial Term of this Agreement, and during any extended or Renewal Term, WSFD shall provide Fire Services in the Fire Service Area whenever notified and dispatched and shall employ its best efforts to protect and save life and property from destruction by fire or medical emergency. The level of services rendered, standards of performance, hiring and discipline of personnel, and all matters related to WSFD policies, procedures, rules, and regulations shall be consistent with the policies, standard operating procedures, and historic levels of service provided by WSFD. The delivery and performance of such services shall remain within the sole discretion and control of WSFD, but shall be subject to periodic review by the Cities.
- b. Reports. WSFD shall provide an annual report to each City that reflects the most recent five (5) year history of fire and emergency medical response calls in the Fire Service Area, the most recent three (3) year summary of WSFD revenues and expenses, a current list of fixed assets and capital equipment, and any other information that the Cities may reasonably request. In addition, WSFD shall provide the Cities monthly reports reflecting the previous month's fire and emergency medical response calls in the Fire Service Area.
- c. Equipment. Except as otherwise provided in this Agreement, WSFD shall purchase, own, or lease, and, in all events, maintain in good order and repair such firefighting apparatus and equipment as may be necessary and suitable for provision of Fire Services in the Fire Service Area.
- d. Call Priority. All decisions concerning call priority shall be made in the sole discretion of the WSFD Fire Chief or other WSFD officer who may be in charge in the absence of the WSFD Fire Chief and subject to the reasonable review and approval of the West Hennepin Public Safety Director. Nothing in this Agreement shall be construed as requiring WSFD to respond to a call when all available equipment and personnel are responding to a previously reported call.
- e. Mutual Aid Service. This Agreement shall not be construed as limiting in any way WSFD's provision of mutual aid services, provided however that such service shall be furnished as soon as reasonably possible without jeopardizing WSFD's ability to respond to a call for Fire Service in the Fire Service Area.

4. Staffing.

- a. Generally. Personnel assigned to provide Fire Services shall be volunteer officer and firefighter members of WSFD. Unless otherwise provided in this Agreement, all obligations with respect to Workers' Compensation, retirement payments and benefits, withholding tax, and insurance for each WSFD member or volunteer firefighter shall be the responsibility of WSFD and the Cities shall not be required to provide any of the foregoing compensation or non-wage benefits. WSFD and its members, employees, and agents are independent contractors of the Cities. The City and WSFD agree that WSFD shall not at any time or in any manner represent that WSFD or any of its members, employees, or agents are agents or employees of the Cities, and WSFD shall be solely responsible for timely payment of all taxes, Workers' Compensation benefits, and compensation for injuries to its members, employees, and agents while performing their duties.
- b. Maple Plain Firefighters. WSFD agrees that it shall hire all active firefighters of the Maple Plain Volunteer Fire Department listed on attached Exhibit C ("**Maple Plain Firefighters**"). Beginning on the Commencement Date, all Maple Plain Firefighters that have accepted a position with WSFD shall become active firefighters of the WSFD and shall be subject to the same rules, regulations, and control as all other WSFD personnel. All Maple Plain Firefighters shall be subject to a one (1) year probationary period starting on the Commencement Date.

Notwithstanding Section 4a, Maple Plain and Independence shall make an annual contribution to WSFD's PERA retirement account for five (5) years after the Commencement Date in order to cover all costs associated with the higher pension program (the "**Annual Contributions**"). The Annual Contributions shall be \$3,626.27 per Maple Plain Firefighter that have accepted a position and is retained by WSFD on the Commencement Date. The per Maple Plain Firefighter amount shall be paid annually based on the actual Maple Plain Firefighters that are retained by WSFD for the respective year. Maple Plain and Independence shall evenly share the Annual Contributions being separately responsible for fifty percent (50%). Once all Annual Contributions have been paid for the five (5) years after Commencement Date, WSFD shall be solely responsible for all subsequent retirement payments and benefits for the Maple Plain Firefighters in accordance with Section 4a including during any Renewal Terms.

5. Cost of Service.

- a. Initial Term. For the Initial Term years beginning on the Commencement Date, the cost of Fire Services shall be in an annual amount of \$491,070.00 ("**Initial Budget**"), with Maple Plain responsible for \$214,633.87 and Independence responsible for \$276,436.13. The Parties agree to yearly audit and the Initial Budget will be adjusted up to a maximum increase of five percent (5%) per year.

- b. Renewal Terms. For each Term after the Initial Term, including any Renewal Terms, the cost of Fire Services to the Cities shall be determined for each calendar year using the WSFD formula described on attached Exhibit D.
- c. Method of Payment. The allocated costs of Fire Services to each City in the Initial Term and each Renewal Term shall be payable in monthly installments or, upon mutual agreement of WSFD and a City, in quarterly installments. A City may prepay all or part of the allocated costs of Fire Services.
- d. One-Time Cost. Within thirty (30) days of the Commencement Date, the Cities shall pay WSFD a one-time payment of approximately \$37,000.00, as may be increased when reasonably necessary, for uniforms, truck decals, and related equipment necessary for the Maple Plain Firefighters to operate as WSFD firefighters (the “**Equipment Cost**”). Independence and Maple Plain shall each be responsible for fifty percent (50%) of the Equipment Cost. WSFD agrees that the Equipment Cost is a one-time payment and that unless otherwise described in this Agreement any subsequent charges for uniforms, truck decals, and related equipment shall be the sole responsibility of WSFD.
- e. Apparatus Cost. The Parties agree to pay for the cost of a new tanker truck, the cost of which will be determined by WSFD, in the following manner: (i) WSFD shall be responsible for fifty percent (50%) of the cost; (ii) Maple Plain shall be responsible for twenty-five percent (25%) of the cost; and (iii) Independence shall be responsible for twenty-five percent (25%) of the cost. The costs responsibility of the Cities may be financed or paid at the time the tanker truck is put into service.

6. **Maple Plain Equipment.**

- a. Relinquishment. In consideration of this Agreement and for the purposes of providing Fire Services, Maple Plain agrees to relinquish to WSFD and WSFD agrees to accept from Maple Plain the Maple Plain Equipment, subject to the terms and conditions of this section.
- b. Title. Maple Plain represents and warrants to WSFD that Maple Plain is seized of good and sufficient title and interest to the Maple Plain Equipment and has full authority to enter into and execute this Agreement. Maple Plain further covenants there are no liens, judgments, or impediments of title on the Equipment, or affecting Maple Plain’s title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use of the Maple Plain Equipment by WSFD as set forth herein.
- c. Delivery. The Maple Plain Equipment shall be available for pick-up and delivery as of the Commencement Date. WSFD shall be responsible for all pick-up and delivery of the Maple Plain Equipment and all costs and fees associated therewith.

At the time of delivery, Maple Plain shall transfer any title or other ownership documents to WSFD and the Maple Plain Equipment shall become the sole property of WSFD.

- d. “As-Is”. The Maple Plain Equipment is being given to WSFD and WSFD accepts the Equipment “as-is” with no warranty or guarantee as to its condition and/or suitability for any particular purpose.

7. **Termination.**

- a. Events of Termination. Except as otherwise provided herein, this Agreement may be terminated as follows:
 - i. By any Party for any reason at least two (2) years prior to the date of termination, except that in consideration of the Cities relinquishment of the Maple Plain Equipment, WSFD agrees that it will not cease or otherwise terminate the provision of Fire Services within the Fire Service Area for convenience and without cause, irrespective of the reason, except by written consent of all Parties.
 - ii. By any Party upon a default of any covenant or term hereof by another Party, which default is not cured within ninety (90) days of receipt of written Notice of default to the other Party, unless such default may not reasonably be cured within a 90-day period, in which case, this Agreement may not be terminated if the defaulting Party commences action to cure the default within such 90-day period, proceeds diligently to fully cure the default and thereafter cures the default.
- b. Notice of Termination. The Parties shall give Notice of termination in writing in the manner prescribed in Section 10d. Upon such termination, this Agreement shall be of no further force and effect except to the extent of the representations, warranties, and indemnities made by each Party to the others hereunder.

- 8. **Defense and Indemnification**. WSFD agrees to indemnify, defend, and hold harmless each City and its elected officials, officers, agents, and representatives, from and against any and all claims, costs, losses, expenses, demands, actions, fines, penalties, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation, which may be asserted against or incurred by the City or for which the City may be liable, which arise from negligence, willful misconduct, or other fault of WSFD or its employees, agents, or officers in the execution or performance of this Agreement, provided the same is not due to the negligence or willful misconduct of the City. The indemnification obligations of this paragraph shall survive the termination or expiration of this Agreement.

9. **Insurance.**

- a. Workers' Compensation. WSFD must maintain Workers' Compensation insurance no less than the minimum limits required by Applicable Law. The policy shall also provide Employer's Liability coverage with limits of \$500,000 Bodily Injury each accident, \$500,000 Bodily Injury by disease, policy limit, and \$500,000 Bodily Injury by disease, for each employee.
- b. Commercial Liability. WSFD shall provide to each City, upon the Commencement Date, and maintain, at all times, a Commercial General Liability Coverage Certificate of Insurance with limits of at least \$2,000,000 for each person and each occurrence, for both personal injury and property damage.
- c. Additional Insured - Certificate of Insurance; Coverage. WSFD shall provide evidence of the required insurance in the form of a Certificate of Insurance issued by a company authorized to do business in the State of Minnesota, which includes all coverage required in this Section with an AM Best rating of no less than A-VII. WSFD shall include each City as an Additional Insured as their interest may appear under this Agreement on the Commercial General Liability Policy. Further, in the event the above minimum requirements do not meet a City's maximum tort liability under Minn. Stat. § 466.04, then the City shall be promptly provided with a replacement Certificate of Insurance that meets or exceeds the City's maximum tort liability under Minn. Stat. § 466.04. Said insurance shall be maintained at all times.

10. **Fire Advisory Board.** ?

11. **Miscellaneous.**

- a. Entire Agreement. This Agreement sets forth the entire, final, and complete understanding between the Parties hereto relevant to the subject matter of this Agreement, and it supersedes and replaces all previous understandings or agreements, written, oral, or implied, relevant to the subject matter of this Agreement made or existing before the date of this Agreement. Except as expressly provided by this Agreement, no waiver or modification of any of the terms or conditions of this Agreement shall be effective unless in writing and signed by all Parties. Any provision of this Agreement that logically would be expected to survive termination or expiration, shall survive for a reasonable time period under the circumstances, whether or not specifically provided in this Agreement.
- b. Assignment. No Party may assign or otherwise transfer any of its rights or obligations under this Agreement to any third-party without the prior written approval of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. The respective rights and obligations provided in this Agreement shall bind and shall inure to the benefit of the Parties hereto, their legal representative, heirs, successors and permitted assigns. No rights however, shall inure to the benefit of any assignee, unless such assignment shall have been made in accordance with this Section.

- c. Amendments. Any amendments to this Agreement shall be effective only if in writing signed by an authorized representative of all Parties.
- d. Notice. Unless explicitly set forth to the contrary herein, all notices or requests that are required or permitted to be given pursuant to this Agreement must be given in writing and be deemed to have been given (a) when received or rejected by the addressee if sent by a nationally recognized overnight courier (receipt requested), or (b) when received or rejected by the addressee if sent by United States Postal Service (receipt requested) (“**Notice**”). A Notice must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a Notice given in accordance with this Section):

If to be given to Maple Plain:

City of Maple Plain
Attn: City Administrator
5050 Independence St.
Maple Plain, MN 55359

With copy to:

Hoff Barry, P.A.
Attn: City Attorney
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

If to be given to Independence:

City of Independence
Attn:

With a copy to:

If to be given to WSFD:

- e. Severance and Authority. Each provision of this Agreement shall be construed as separable and divisible from every other provision and the enforceability of any one

- provision shall not limit the enforceability, in whole or in part, of any other provision. In the event that a court or administrative body of competent jurisdiction holds any provision of this Agreement to be invalid, illegal, void or less than fully enforceable as to time, scope or otherwise, such provision shall be construed by limiting and reducing it so that such provision is valid, legal and fully enforceable while preserving to the greatest extent permissible the original intent of the parties; the remaining terms and conditions of this Agreement shall not be affected by such alteration, and shall remain in full force and effect. Each of the Parties hereto warrants to the others that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.
- f. Governing Law. This Agreement shall be construed, governed, and enforced in accordance with the laws of the state of Minnesota.
- g. Venue and Attorneys' Fees. Any court action to enforce the terms, conditions and rights herein shall be brought in Hennepin County District Court. The prevailing Party shall be entitled to recover reasonable costs and reasonable attorney's fees incurred as a result of such action.
- h. Interpretation. For purposes of this Agreement, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to sections, schedules, and exhibits mean the sections of, and schedules and exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The schedules and exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.
- i. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- j. No Waiver. The failure of any Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

- k. Survival. The provisions of this Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.
- l. Compliance with Law. Each Party shall, with respect to its actions and/or inactions pursuant to and in connection with this Agreement, comply with all applicable statutes, laws, rules, ordinances, codes and governmental or quasi-governmental orders or regulations (in each case, whether federal, state, local or otherwise) and all amendments thereto, now enacted or hereafter promulgated and in force during the Term of this Agreement, a Renewal Term or any extension of either of the foregoing.
- m. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
- n. Counterparts. This Agreement may be executed in any number of identical counterparts and, as so executed, shall constitute one agreement, binding on all the Parties hereto, notwithstanding that all the Parties are not signatories to the original or the same counterpart. Execution of this Agreement by facsimile or electronic signature shall be effective to create a binding agreement and, if requested, Independence, Maple Plain, and WSFD agree to exchange original signed counterparts in their possession.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF MAPLE PLAIN,
a Minnesota municipal corporation

BY: _____
Mayor

AND: _____
City Administrator

CITY OF INDEPENDENCE,
a Minnesota municipal corporation

BY: _____
Mayor

WEST SUBURBAN FIRE DISTRICT,
a Minnesota non-profit corporation

By: _____

Its: _____

EXHIBIT A
Fire Service Area

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EXHIBIT B
Maple Plain Equipment

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EXHIBIT C

List of Maple Plain Volunteer Fire Department Firefighters

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EXHIBIT D
WSFD Budget Formula

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